

LOSS PREVENTION

SPOTLIGHT

Fall 2002

FOCUSING ON LOSS PREVENTION INFORMATION FOR STATE AGENCIES

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Loss Review Teams—The Link to Loss Prevention

A few months after the Risk Management Office moved from General Administration and became the Risk Management Division in the Office of Financial Management, another Risk Management Task Force recommendation began implementation. This recommendation, which evolved to establish a statewide program, enables state agencies to focus on ways to prevent future tragedies by conducting incident reviews after a death or loss.

Agencies were often reluctant to conduct in-depth reviews for fear that what they uncovered would be used against them should a lawsuit develop in the future. However, with the passage of ESSB 6428, reviewing the events of a death, serious injury or other events alleged to be caused by the state required a new response by state agencies. It involved reporting specific incidents, of which, some would be referred for a team review of findings and determining strategies for preventing future occurrences. See RCW 43.41.370 and 43.41.380.

In a June 2002 letter to agency directors and college presidents, OFM Director Marty Brown briefly outlined the reporting guidelines for determining incidents to be reported to his office and general composition of the review teams. He also outlined that the legislation directed his office to identify the cases that would require a team review.

As an addition to the responsibilities of OFM's Risk Management Division, the Loss Prevention Review team program began operation in October 2002, under the direction of program manager Roselyn "Ro" Marcus. She forged an aggressive plan to lay the foundation for the reporting and review team process to meet an anticipated start-up date of January 2003 for the first agency review team case.

FAST FACTS:

As of November 14, 2002, there were 2,179 pending general liability and 216 auto liability claims (including suits) pending with the State Risk Management Division.



Did you know?

The 2002 Legislature enacted ESSB 6428, which became effective June 13, 2002. This legislation enables state agencies to prevent future tragedies by conducting incident reviews after a death or loss without fear that what they discover will be used against them in court. This legislation will help prevent the kinds of tragedies and suffering that are at the heart of too many lawsuits.

Commercial Insurance **UPDATE**

"Hard" Insurance Markets Hard on Everyone

The "hard" insurance market (higher costs, less availability, and reduced coverage terms) caused insurance professionals everywhere to rethink their insurance programs. While the focus of this rethinking process is on agency-based insurance needs, agency rethinking also needs to extend to entities the agency does business with. Consider that many of these entities may be forced to reduce their limits, increase their deductibles, or buy restricted coverage in the current hard market environment.

A key question to ask in reviewing insurance requirements imposed on entities the agency does business with—are these insurance requirements *still reasonable in view of recent market change?* This review may reveal that it is necessary for the agency to make adjustments in recognition of the new marketplace realities that all entities face.

See "Update" on the back

Review (cont.)

Question: Who must report incidents to OFM?

Answer: The director or his/her designee.

Note: The director or his/her designee is encouraged to contact OFM prior to reporting an incident if it is unclear whether an incident falls within the guidelines.

Question: When are incidents to be reported?

Answer: Incidents are to be submitted within five working days following the date of an incident. This timeline applies to all agencies.

This is a brief overview of the reporting requirements for agencies. Agencies are also encouraged to visit OFM's website to learn more about their responsibilities under this new program and for periodic information updates. Agencies can contact Roselyn "Ro" Marcus at (360) 902-7396 or e-mail her at roselyn.marcus@ofm.wa.gov. The link to the program's website is <http://www.ofm.wa.gov/rmd/lprt/loss.htm>.

LPRT Manager Brings Law Background to Program

Prior to coming to Risk Management to manage the Loss Prevention Review Team program (LPRT), Roselyn Marcus served eight years as an Assistant Attorney General, representing a variety of agencies. She lived in Texas and served as the General Counsel to the State Racing Commission. Before joining Risk Management, she was the Acting Manager for the DIS Contracts and Legal Affairs Office. Roselyn is licensed to practice law in Washington, New York and Texas.

Loss Prevention Review Team Reporting Guidelines

The first step for agencies in addressing the requirements of the Loss Prevention Review Team is knowing what to report. The following questions and answers are provided to help agencies become familiar with the reporting requirements:

***Question:** What events are agencies required to report to OFM?*

Answer: Agencies are to notify the Director of OFM when they become aware of a death, serious injury, or other substantial loss that is alleged or suspected to be caused at least in part by the actions of the state agency.

***Question:** Is there specific reporting criteria.*

Answer: For all agencies, including DOC, the criteria for incident reporting is described below, with specific criteria for DSHS, DOT, and state universities following:

- Death of a person.
- Serious injury to a person.
- Other substantial loss alleged/suspected to be caused at least in part by the actions of a state agency.

DSHS Reporting Criteria:

- Any sudden, unexpected death of a child or adult while residing in foster care, group care, an adult family home or a boarding home.
- Every unexpected death and any serious injury to a juvenile or adult residing in an institution operated by the Juvenile Rehabilitation Administration (JRA), the Division of Developmental Disabilities or the Mental Health Division.
- Any death or serious injury that may indicate a recurring pattern.
- Any allegation that a juvenile released from a JRA facility within the last twelve months has committed a homicide or sexual offense.
- Any significant loss which the Secretary believes there is a significant probability that a similar incident will reoccur. The incident shall be alleged or suspected to be caused, at least in part, by the actions of the state agency.

DOT Reporting Criteria:

- Any traffic accidents involving five (5) or more fatalities.
- Any serious injury accident involving a DOT employee.
- Any matter in which the Secretary believes the loss to the agency could exceed \$2 million.
- Any significant loss in which the Secretary believes there is a significant probability that a similar incident will reoccur. The incident shall be alleged or suspected to be caused, at least in part, by the actions of the state agency.

Universities Reporting Criteria:

- Any incident involving the death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused, at least in part, by the action of a state agency.
- Any substantial loss occurs as a result of agency policies, litigation or defense practices, or other management practices.
- Any significant loss which the University President believes there is a significant probability that a similar incident will reoccur. The incident shall be alleged or suspected to be caused, at least in part, by the actions of the state agency.

Update (cont.)

After the "reasonableness" check, agencies should consider performing an audit of the "follow-up" or monitoring system in place to ensure contract compliance. A well-worded insurance clause is rendered worthless simply by non-compliance of contract terms by the other party.

Bottom line: diligence to ensure certificates are up-to-date will lessen the chances that insufficiencies are discovered "too late".

Most office computer applications offer a diary feature, adaptable for creating "reminders" for periodic certificate review. These reviews help ensure certificates are *adequate and/or inforce*, especially important for projects that span several years.

15-Passenger Van Safety Focused

A focus group consisting of various agency representatives, and coordinated through the Risk Management Division, met on November 6, 2002 to explore strategies for increasing safety in the operation of 15-passenger vans. Recommendations were made and are currently under review. For more information, contact Jolene Bellows, Loss Prevention Manager at (360) 902-7312 or jolene.bellows@ofm.wa.gov.